

Farr for the appellant.

Ma'arof (D.P.P.) for the respondent.

Cur. Adv. Vult.

Mudie J.: The appellant is a resident of Singapore. He is the owner of a motor-car which is registered in Singapore and bears the registration number S.5813.

[25] [25] On the 16th of July he was driving to Kuala Lumpur. As he was passing through Seremban he was stopped by the police, and was told that his licence had expired at the end of June.

In the Federated Malay States annual licences are issued for motor vehicles under section 5 of the Motor Vehicles Enactment, 1928. In the Colony a different system prevails. Motor-cars are registered under section 4 of Ordinance No. 129 (Traction Engines and Motor Cars). Such registration is not renewed annually. It remains in force until it is cancelled under the Rules under the Ordinance.

In the Colony an annual tax is payable on motor-cars under section 80 of Ordinance No. 135 (Municipal). It is payable in advance at the Municipal Office by two equal instalments in the months of January and July.

In the Federated Malay States the licence is carried on the car in a conspicuous position near the wind-screen. In the Colony the receipt for the Municipal tax is carried in a similar position.

The appellant had paid his tax to the end of June. The instalment for the second half of the year was payable any time in July.

The Lance Corporal who stopped the car apparently thought the receipt for the tax was a licence, and that it had expired on the 30th of June.

The appellant was taken to the Police Court, where he was charged under section 44(i) of the Motor Vehicles Enactment, 1928, with using on a public thoroughfare a motor-car, S.5813, without being licensed.

The learned Magistrate held that the licence carried by the car expired on the 30th of June. The appellant was convicted and fined \$5.

He now appeals.

Section 13 of the Motor Vehicles Enactment, 1928, provides that a motor vehicle which is registered in the Colony may be used on the public thoroughfares of the Federated Malay States so long as such registration remains in force, without being licensed under this Enactment.

The appellant's car is registered in the Colony. The appellant now tenders the certificate of registration in evidence. The learned Deputy very properly makes no objection. It is not disputed that the registration is still in force. He is entitled, therefore, under the provisions of this section to use the car on the thoroughfares of the Federated Malay States without a licence.

The question of the Municipal tax is immaterial, though it appears in any case that he is not in arrears.

A As the car is registered in the Colony, no offence has been committed.

The appeal will be allowed. The conviction will be quashed, and the sentence annulled.

Appeal allowed. Conviction quashed.

B

PHILIP HOALIM v. PUBLIC PROSECUTOR

[A. Cr. J. (Cussen J.) September 30, 1935]

[Negri Sembilan Criminal Appeals Nos. 17, 18 and 19 of 1935]

C *The Criminal Procedure Code, 1926, s.302 — Plea of guilty — Conviction — Sentence — Appeal.*

Where an accused person has been convicted by a Magistrate on the strength of his own plea he is prohibited by section 302 of the Criminal Procedure Code, 1926, from appealing against the legality of the conviction. He can only appeal as to the extent or legality of the sentence.

S. C. Goho for the appellant.

D H. C. Willan (Deputy Legal Adviser) for the respondent.

The appellant was charged with offences under section 44(i), Motor Vehicles Enactment, 1928, section 186, Penal Code and section 353, Penal Code alleged to have been committed on the 16th July, 1935. He pleaded guilty to all the charges and was convicted on his pleas. In fact the appellant's motor-car was licensed to run on the road till the 31st July, 1935 — see section 80 of the Colony Municipal Ordinance No. 135; also the motor-car was properly registered. Therefore section 13, Motor Vehicles Enactment, 1929, applies and appellant did not commit any offence.

F I take the preliminary objection that appellant is precluded from appealing against his conviction because he pleaded guilty — see section 302, Criminal Procedure Code, 1926. Appellant can only appeal as to the extent or legality of the sentence. *Empress v. Ja'far*, I.L.R. 5 Bom. 67; *King-Emperor v. Nga Lu Gale*, I.L.R. 5 Rang. 710; *Hayata v. Emperor*, A.I.R. 917 Lah. 413; *Emperor v. Akub Ali*, A.I.R. 1920 Cal. 522.

G S. C. Goho in reply on the preliminary point: An accused who pleads guilty to a charge which states no offence can appeal against his conviction — *Municipal Commissioners v. Chuah Seng*, 3 Kyshe 149; *Chunilal Hargovan v. Emperor*, A.I.R. 1927 Bom. 67. Also see judgment of Avory J. in *R. v. Forde*, [1923] 2 K.B. 403.

H H. C. Willan in further reply: *Municipal Commissioners v. Chuah Seng*, *supra*, is not against me because in that case appellant had [26] been convicted of an offence not known to the law. *Chunilal Hargovan v. Emperor*, *supra*, is distinguishable because there the appellant was convicted by a Second Class Magistrate. *R. v. Forde*, *supra*, had no application here.

Cussen J. delivered an oral judgment dismissing the appeal against the conviction on the preliminary objection taken.

Appeal dismissed.